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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,446	01/30/2004	Randall L. Redman	006593-1969	7990
33375	7590	01/12/2005	EXAMINER	
THOMPSON HINE LLP 2000 COURTHOUSE PLAZA N.E. 10 WEST SECOND STREET DAYTON, OH 45402-1758			GHATT, DAVE A	
			ART UNIT	PAPER NUMBER
			2854	

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/769,446

Applicant(s)

REDMAN ET AL.

Examiner

Dave A Ghatt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.  
4a) Of the above claim(s) 31 is/are withdrawn from consideration.  
5) ☒ Claim(s) 18-25 is/are allowed.  
6) ☒ Claim(s) 1-6, 9-14, 26, 27, 29, and 30 is/are rejected.  
7) ☒ Claim(s) 7, 8, 15-17 and 28 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/19/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: (1) A label printing apparatus with at least two regions corresponding to label stock of at least two widths, and; (2) A label printing apparatus with a key.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Michael J. Nieberding on January 6, 2005 a provisional election was made without traverse to prosecute the invention (1), **claims 1-31**. Affirmation of this election must be made by applicant in replying to this Office action. **Claim 31 is withdrawn** from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). In this application, claim 26 has been omitted, therefore the claim numbering is not consecutive, as required.

**Misnumbered claims 27-32 have been renumbered 26-31.** The corrected claim numbers have already been included in the above Election/Restriction requirement.

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the removable cassette, as well as the printing device including the print media compartment, as recited in claims 9, 30, and 31 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 5, 6, 10, 12, 13, 14, 26, 27, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Keller (US 6,164,203). Keller teaches the claimed invention. With respect to claims 1, 10, 13, and 26, as shown in Figures 2-4 and 36-38, Keller teaches the claimed apparatus. Figures 2-4 of Keller teach a label printing apparatus for accommodating a plurality of widths of rolled label stock, comprising a frame (inner wall) 71 and a label stock support arm 50 extending from/past said frame (inner wall) 71. Figures 36-38 shows an embodiment (500) of the support arm and having at least two stepped regions (shown at 503, 504, 505, and 506) for supporting rolled label stock (print media) R, including a first stepped region (503, 504) with edges spaced apart by a first distance corresponding to a first width of label stock (print media) R and a second stepped region (505, 506) with edges spaced apart by a second distance corresponding to a second width of label stock (print media) R. Figure 4 shows a print head 69 located for having label stock pass thereby for printing.

With respect to claims 2 and 10, Keller teaches a label stock guide 60, shown in Figure 4 positioned along a label stock path between the label stock support arm 50 and the print head 69.

With respect to claims 3, 10, 12, 26, and 27, and the requirement for the label stock guide to have at least a first recessed guide region sized to correspond to the first width of label stock and a second recessed guide region sized to correspond to the second width of label stock, Keller teaches this requirement. As illustrated in Figure 15, the guide includes ribs on the bottom surface forming a plurality of recessed guide regions, which as broadly recited, *correspond* to the plurality of label stock widths. The applicant should not recessed guides of Keller must

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correspond to the different label stock widths in order to be operable and properly guide the stock as it unwinds from the spool.

With respect to claim 5, as shown in Figures 36-38, Keller teaches a third stepped region (507, 508).

With respect to claims 6 and 14, the print head 69 of Keller, must include printing elements that print in the manner as recited, in order for the invention to be operable.

With respect to claim 26, as illustrated in Figure 4, Keller teaches the print media path extending from the arm 50 toward the print head 69.

With respect to claim 29, insofar as structure is recited, Keller teaches the claimed invention. Figure 1 of Keller shows the overall printing device, with the portions of the structure that includes the print media and print media path, meeting the limitations for "media compartment" as recited.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller (US 6,164,203) in view of Southwell et al. (US 5,232,540). As outlined in the above rejection to claims 1-3, 5, 6, 10, 12, 13, 14, 26, 27, and 29, Keller teaches all the claimed structure, except for a reclamation arm for collecting label stock backing. Southwell et al. teaches a label printing

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arrangement similar to that of Keller. As illustrated in Figure 2, Southwell et al. teaches a reclamation arm at 66 for collecting label backing after the labels have been stripped. To one of ordinary skill in the art, it would have been obvious to use an arrangement including a reclamation arm, as taught by Southwell et al., in the apparatus of Keller, in order to properly dispose of the backing layer after stripping.

8. Claims 9 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller (US 6,164,203) in view of Sato et al. (US 4,498,950). As outlined in the above rejection to claims 1-3, 5, 6, 10, 12, 13, 14, 26, 27, and 29, Keller teaches all the claimed structure, except for a cassette structure for the label stock/print media. Sato et al. teaches a label printing arrangement, as shown in Figure 2. Sato et al. teaches a cassette 1 structure for holding the label stock. To one of ordinary skill in the art, it would have been obvious to use an arrangement including a cassette, as taught by Sato et al., in the apparatus of Keller, in order to facilitate convenient changing of the label stock.

***Allowable Subject Matter***

9. Claims 7, 8, 15-17, and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 7 was indicated as having allowable subject matter, because the prior art of record does not teach or render obvious the total combination claimed, including at least one wall mountable in at least two positions alongside a label stock path that extends from the label stock support arm to the print head.



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Claim 15 was indicated as having allowable subject matter, because the prior art of record does not teach or render obvious the total combination claimed, including at least one moveable wall mountable in at least two positions alongside the label stock path.

Claim 28 was indicated as having allowable subject matter, because the prior art of record does not teach or render obvious the total combination claimed, including all three features (a), (b), and (c) as recited in claim 27.

10. Claims 18-25 are allowed.

Claim 18 was allowed because the prior art of record does not teach or render obvious the total combination claimed, including at least one wall for positioning alongside the label stock path, the wall moveable and mountable in at least two positions.

### ***Conclusion***


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave A Ghatt whose telephone number is (571) 272-2165. The examiner can normally be reached on Mondays through Friday 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DAG



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